## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

STEPHEN TROTTER
Claimant
VS.

CENTURY PLASTICS, INC.
Respondent
AND

LIBERTY MUTUAL INSURANCE COMPANY
Insurance Carrier
AND

KANSAS WORKERS COMPENSATION FUND

# **ORDER**

The Kansas Workers Compensation Fund [hereinafter Fund] appeals from a February 9, 1996 Award entered by Administrative Law Judge John D. Clark. The Appeals Board heard oral argument on June 11, 1996.

## **A**PPEARANCES

The claimant, having previously settled his claim with the respondent and its insurance carrier, appeared not. The respondent and its insurance carrier appeared by their attorney, Douglas D. Johnson of Wichita, Kansas. The Fund appeared by its attorney Becky C. Hurtig, appearing for Andrew E. Busch, of Wichita, Kansas.

### RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

## **I**SSUES

The Administrative Law Judge found the Fund to be 100 percent liable for the award. The Fund appeals that finding and conclusion. The sole issue before the Appeals Board is the liability of the Fund.

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs and arguments of the parties, the Appeals Board finds as follows:

The Award of the Administrative Law Judge should be affirmed. Respondent has met its burden of establishing that it knowingly retained a handicapped employee and that the claimant's injury and resulting disability would not have occurred but for the preexisting impairment. The evidence in this regard is uncontradicted. All compensation and benefits awarded to claimant because of his July 8, 1992 and September 25, 1992 accidents shall be paid by the Fund.

#### AWARD

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated February 9, 1996 should be, and hereby is, affirmed in all respects and the orders contained in the Award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.
Dated this day of June 1996.
BOARD MEMBER
BOARD MEMBER
DOADD MEMBED
BOARD MEMBER

c: Douglas D. Johnson, Wichita, KS Andrew E. Busch, Wichita, KS John D. Clark, Administrative Law Judge Philip S. Harness, Director